

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

UGOCHUKWU GOODLUCK NWAUZOR;  
FERNANDO AGUIRRE-URBINA,  
individually and on behalf of all those similarly  
situated,

Plaintiffs-Appellees,

No. 21-36024

v.

THE GEO GROUP, INC., a Florida  
corporation,

Defendant-Appellant,

STATE OF WASHINGTON,

Plaintiff-Appellee,

v.

No. 21-36025

THE GEO GROUP, INC.,

Defendant-Appellant,

**RESPONSE TO ORDER INVITING AMICUS BRIEF**

The United States files this response to the Court's order of March 7, 2023, which invited the United States to submit an amicus brief in these appeals and instructed the United States to "advise [the court] if it wishes to submit a brief in response to this order and, if so, when it expects to file its brief." Order at 2. As

explained further below, the Solicitor General is considering whether to authorize the filing of an amicus brief in this case. An amicus brief, if authorized, would be filed no later than February 21, 2024.

1. These appeals arise from suits brought by private plaintiffs and the State of Washington against GEO Group, Inc. GEO operates a facility in Tacoma, Washington, where federal immigration detainees are held. The plaintiffs here contend that a work program operated by GEO within that facility is required to comply with the Washington Minimum Wage Act, and that GEO did not compensate immigration detainees who participated in that work program at the required rate. The district court granted judgment to the plaintiffs, and GEO appealed.

2. On March 7, 2023, this Court invited the United States to submit an amicus brief in these appeals. On the same day, this Court certified three state-law questions to the Washington Supreme Court and instructed the parties to file a joint status report when the Washington Supreme Court provided answers to the certified questions. On April 6, 2023, the United States filed an initial response to the Court's invitation. We explained that given the certification proceedings, the United States intended to defer a decision on amicus participation until after the conclusion of proceedings in the Washington Supreme Court. We also promised to file a further response within 30 days of the status report from the parties ordered by the Court.

3. The Washington Supreme Court issued its opinion answering the certified questions on December 21, 2023, and the parties filed their status report later that

day. The United States therefore submits this further response to the Court’s invitation.

4. The Solicitor General is considering whether to authorize the filing of an amicus brief in these matters. That process includes consultations with interested government agencies and components.

5. Although the Solicitor General has not yet made a decision on whether to authorize amicus participation, we are prepared to state that an amicus brief, if ultimately authorized, would be filed no later than 30 days from today—February 21, 2024. If the Solicitor General determines not to authorize the filing of an amicus brief before that date, we will promptly advise the Court.

Respectfully submitted,

MARK B. STERN

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JANUARY 2024

## CERTIFICATE OF COMPLIANCE

This response contains 441 words. This response was prepared using Microsoft Word 2013 in Garamond, 14-point font, a proportionally-spaced typeface.

/s/ *Brad Hinshelwood*  
Brad Hinshelwood